

# House File 737 - Enrolled

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HOUSE FILE 737

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1 3 AN ACT  
1 4 RELATING TO THE REGISTRATION AND LICENSING OF MORTGAGE  
1 5 BANKERS AND BROKERS, PROVIDING FOR FEES, AND PROVIDING  
1 6 AN EFFECTIVE DATE.  
1 7  
1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 9  
1 10 Section 1. Section 535B.1, Code 2005, is amended by adding  
1 11 the following new subsection:  
1 12 NEW SUBSECTION. 2A. "Individual registrant" means a  
1 13 natural person who is registered or who is required to be  
1 14 registered under section 535B.4A.  
1 15 Sec. 2. Section 535B.1, subsection 4, Code 2005, is  
1 16 amended to read as follows:  
1 17 4. "Mortgage banker" means a person who does one or more  
1 18 of the following:  
1 19 a. Makes at least four first mortgage loans on residential  
1 20 real property located in this state in a calendar year.  
1 21 b. Originates at least four first mortgage loans on  
1 22 residential real property located in this state in a calendar  
1 23 year and sells four or more such loans in the secondary  
1 24 market.  
1 25 c. Services at least four first mortgage loans on  
1 26 residential real property located in this state. However, a  
1 27 natural person, who services less than fifteen first mortgage  
1 28 loans on residential real estate within the state and who does  
1 29 not sell or transfer first mortgage loans, is exempt from this  
1 30 paragraph if that person is otherwise exempt from the  
1 31 provisions of this chapter.  
1 32 "Mortgage banker" does not include a person whose job  
1 33 responsibilities on behalf of a licensee or individual  
1 34 registrant are to process mortgage loans, are solely clerical  
1 35 in nature, or otherwise do not involve direct contact with  
2 1 loan applicants.  
2 2 Sec. 3. Section 535B.1, subsection 5, Code 2005, is  
2 3 amended to read as follows:  
2 4 5. "Mortgage broker" means a person who arranges or  
2 5 negotiates, or attempts to arrange or negotiate, at least four  
2 6 first mortgage loans or commitments for four or more such  
2 7 loans on residential real property located in this state in a  
2 8 calendar year. "Mortgage broker" does not include a person  
2 9 whose job responsibilities on behalf of a licensee or  
2 10 individual registrant are to process mortgage loans, are  
2 11 solely clerical in nature, or otherwise do not involve direct  
2 12 contact with loan applicants.  
2 13 Sec. 4. Section 535B.2, Code 2005, is amended to read as  
2 14 follows:  
2 15 535B.2 EXEMPTIONS.  
2 16 This chapter, except for sections 535B.3, 535B.11, 535B.12,  
2 17 and 535B.13, does not apply to any of the following:  
2 18 1. A national bank, bank holding company, savings bank,  
2 19 savings and loan association, or credit union organized under  
2 20 the laws of this state, another state, or the United States,  
2 21 or a subsidiary or affiliate of such a bank, bank holding  
2 22 company, savings bank, savings and loan association, or credit  
2 23 union.  
2 24 2. A federally chartered savings and loan association.  
2 25 3. A federally chartered savings bank.  
2 26 4. A federally chartered credit union.  
2 27 5. 2. A loan company licensed under chapter 536 or 536A.  
2 28 6. A bank organized under chapter 524.  
2 29 7. A savings and loan association or savings bank  
2 30 organized under chapter 534.  
2 31 8. A credit union organized under chapter 533.  
2 32 9. 3. An insurance company or a subsidiary or affiliate  
2 33 of an insurance company organized under the laws of this  
2 34 state, another state, or the United States, and subject to  
2 35 regulation by the commissioner of insurance.  
3 1 10. A wholly owned subsidiary of an organization listed in  
3 2 subsections 1 through 9 if the listed organization has its  
3 3 principal place of business in Iowa.  
3 4 11. A bank, savings and loan association, credit union, or  
3 5 insurance company organized or chartered under the laws of any

3 6 other state, provided the financial institution or insurance  
3 7 company has a place of business in Iowa or in a county of  
3 8 another state if that county is contiguous to an Iowa border.  
3 9 ~~12.~~ 4. Mortgage lenders or mortgage bankers maintaining  
3 10 an office in this state whose principal business in this state  
3 11 is conducted with or through mortgage lenders or mortgage  
3 12 bankers otherwise exempt under this section and which maintain  
3 13 a place of business in this state.  
3 14 5. An insurance producer licensed under chapter 522B.  
3 15 6. An individual who is employed by a person otherwise  
3 16 exempt under this section, or who is under an exclusive  
3 17 contract with a person otherwise exempt under this section to  
3 18 the extent that the individual is acting within the scope of  
3 19 the individual's employment or exclusive contract with the  
3 20 exempt person and is acting within the scope of the exempt  
3 21 person's charter, license, authority, approval, or  
3 22 certificate.  
3 23 7. A real estate broker licensed under chapter 543B.  
3 24 ~~13.~~ 8. A nonprofit organization qualifying for tax=  
3 25 exempt status under the Internal Revenue Code as defined in  
3 26 section 422.3 which offers housing services to low and  
3 27 moderate income families.  
3 28 Sec. 5. Section 535B.3, subsections 1 and 3, Code 2005,  
3 29 are amended to read as follows:  
3 30 1. A person exempt under section 535B.2, subsection ~~10,~~  
3 31 ~~11, 12, or 13~~ 4 or 8, shall register with the administrator.  
3 32 3. The registrant, except a nonprofit organization exempt  
3 33 under section 535B.2, subsection ~~13~~ 8, shall pay an annual  
3 34 registration fee of one hundred dollars.  
3 35 Sec. 6. NEW SECTION. 535B.4A INDIVIDUAL REGISTRATION  
4 1 REQUIREMENTS == FEES.  
4 2 1. A natural person who is a mortgage banker or mortgage  
4 3 broker and who is employed by, under contract with, or is an  
4 4 agent of a licensee under section 535B.4 shall register  
4 5 annually with the administrator. The administrator shall  
4 6 collect registration fees necessary to cover the costs  
4 7 associated with the annual registrations made pursuant to this  
4 8 section.  
4 9 2. An individual registrant who registers pursuant to this  
4 10 section for the first time shall submit to a criminal  
4 11 background check prior to being registered. The administrator  
4 12 shall collect fees necessary to cover the costs associated  
4 13 with criminal background checks conducted pursuant to this  
4 14 section.  
4 15 3. A person shall not be eligible for licensing pursuant  
4 16 to section 535B.4 unless all individual registrants employed  
4 17 by, under contract with, or who are agents of the person have  
4 18 successfully completed the registration and criminal  
4 19 background check required by this section.  
4 20 4. The registration of an individual registrant pursuant  
4 21 to this section is not assignable.  
4 22 5. The registration of an individual registrant pursuant  
4 23 to this section expires on June 30 following the date of  
4 24 registration.  
4 25 6. An individual registrant who fails to comply with the  
4 26 requirements of section 535B.9A shall not be registered or the  
4 27 registration of the individual registrant may be suspended or  
4 28 revoked by the administrator.  
4 29 Sec. 7. Section 535B.9, subsection 1, Code 2005, is  
4 30 amended to read as follows:  
4 31 1. An applicant for a license shall file with the  
4 32 administrator a bond furnished by a surety company authorized  
4 33 to do business in this state. The bond shall be in the amount  
4 34 of ~~fifteen~~ twenty-five thousand dollars for an applicant  
4 35 seeking to transact business solely as a mortgage broker, or  
5 1 ~~thirty~~ fifty thousand dollars for an applicant seeking to  
5 2 transact business as a mortgage banker. The bond shall be  
5 3 continuous in nature until canceled by the surety with not  
5 4 less than thirty days' notice in writing to the mortgage  
5 5 broker or mortgage banker and to the administrator indicating  
5 6 the surety's intention to cancel the bond on a specific date.  
5 7 The bond shall be for the use of the state and any persons who  
5 8 may have causes of action against the applicant. The bond  
5 9 shall be conditioned upon the applicant's faithfully  
5 10 conforming to and abiding by this chapter and any rules  
5 11 adopted under this chapter and shall require that the surety  
5 12 pay to the state and to any persons all moneys that become due  
5 13 or owing to the state and to the persons from the applicant by  
5 14 virtue of this chapter.  
5 15 Sec. 8. NEW SECTION. 535B.9A CONTINUING EDUCATION  
5 16 REQUIREMENTS.

5 17 1. All individual registrants shall complete twelve hours  
5 18 of continuing education or training each year. The  
5 19 administrator shall establish an annual deadline for the  
5 20 completion of such continuing education or training.  
5 21 2. Continuing education or training shall not be offered  
5 22 to individual registrants until the curriculum of the  
5 23 continuing education or training has been approved by the  
5 24 administrator.  
5 25 3. Each individual registrant shall annually provide the  
5 26 administrator with proof of the individual registrant's  
5 27 compliance with the requirements of this section.  
5 28 Sec. 9. Section 558.70, subsection 4, Code 2005, is  
5 29 amended to read as follows:  
5 30 4. This section applies to a contract seller who entered  
5 31 into four or more residential real estate contracts in the  
5 32 three hundred sixty-five days previous to the contract seller  
5 33 signing the contract disclosure statement. For purposes of  
5 34 this subsection, two or more entities sharing a common owner  
5 35 or manager are considered a single contract seller. This  
6 1 section does not apply to an organization listed in section  
6 2 535B.2, subsections 1 through ~~12~~ 7.  
6 3 Sec. 10. EFFECTIVE DATE. The provisions of this Act take  
6 4 effect July 1, 2006.  
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6 8 \_\_\_\_\_  
6 9 CHRISTOPHER C. RANTS  
6 10 Speaker of the House  
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6 12 \_\_\_\_\_  
6 13 JOHN P. KIBBIE  
6 14 President of the Senate  
6 15

6 16 I hereby certify that this bill originated in the House and  
6 17 is known as House File 737, Eighty-first General Assembly.  
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6 19

6 20 \_\_\_\_\_  
6 21 MARGARET THOMSON  
6 22 Chief Clerk of the House  
6 23

6 23 Approved \_\_\_\_\_, 2005  
6 24  
6 25

6 26 \_\_\_\_\_  
6 27 THOMAS J. VILSACK  
6 28 Governor